

REDACTED

In United States District Court
For the District of Delaware

UNITED STATES OF AMERICA

Criminal Complaint

v.

CASE NUMBER: 07- 149M

JAMES L. CHEESEMAN,

Defendant

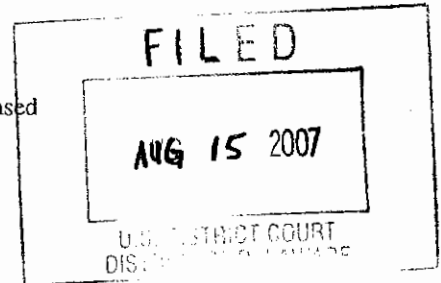
I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about August 5, 2007 in the District of Delaware, Defendant JAMES L. CHEESEMAN:

did knowingly possess in and affecting interstate commerce a firearm and ammunition, while then an unlawful user of, and addicted to, a controlled substance, to wit, cocaine base; did knowingly distribute a controlled substance, to wit, cocaine base; and did knowingly and intentionally possess more than five grams of a mixture and substance containing a detectable amount of cocaine base;

in violation of Title 18 United States Code, Section(s) 922(g)(3) and 924(a)(2); and Title 21 United States Code, Section(s) 841(a)(1), (b)(1)(C), and 844.

I further state that I am a(n) Special Agent, ATF and that this complaint is based
Official Title
on the following facts:

See attached Affidavit



Continued on the attached sheet and made a part hereof: Yes

Diane M. Iardella
Diane M. Iardella
Special Agent, ATF

Sworn to before me and subscribed in my presence,

August 13, 2007 at
Date

Honorable Mary Pat Thyng
United States Magistrate Judge
Name & Title of Judicial Officer

Wilmington, DE
City and State

Mary Pat Thyng
Signature of Judicial Officer

I, Diane M. Iardella, Special Agent, ATF, being duly sworn, depose and state that:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in Wilmington, Delaware. I have been a Special Agent with ATF for approximately nineteen years. I have been involved in the investigation of approximately 200 cases involving firearms violations. I have attended eight weeks of Criminal Investigator School and eight weeks of ATF New Agent Training at the Federal Law Enforcement Training Center in Glynco, Georgia.
2. As part of my duties, responsibilities and training, and in the course of my investigative experience, I have become familiar with the statutes, rules and regulations, policies and procedures, relating to the Bureau of Alcohol, Tobacco, Firearms and Explosives, including but not limited to the regulation and sales of firearms by Federally Licensed Firearms Dealers.
3. This affidavit is submitted in support of a criminal complaint relating to James L. Cheeseman. X-Ring Supply is a Federally Licensed Firearms Dealer. Its license is held by Mr. Cheeseman. As set forth below, on August 5, 2007, Mr. Cheeseman was stopped by law enforcement officers in the possession of a significant quantity of suspected crack cocaine. During the course of the stop, Mr. Cheeseman indicated to the officers that he has suffered from a drug addiction. Mr. Cheeseman's companion at the time of the stop further told the officers that he had purchased crack cocaine for her earlier that night, and that, at the time of the stop, she and Mr. Cheeseman were en route to his business. Title 18, United States Code, Section 922(g) prohibits persons who are unlawful users of, or addicted to, controlled substances from shipping, transporting, possessing or receiving in interstate commerce any firearm or ammunition. By virtue of his firearms license and ownership of X-Ring Supply, Mr. Cheeseman is believed to be in unlawful possession of over 700 firearms.
4. Based on my training and experience and participation in other ATF investigations involving Federally Licensed Firearms Dealers ("FFL"), I know that:
 - a. Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which shall entitle the licensee to transport, ship and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.
 - b. It is required for Federal Firearms Licensees, pursuant to Title 18 United States Code, Section 923, to maintain records of firearms inventories and sales in an Acquisition and Disposition Book;
 - c. Federal Firearms Licensees are subject to an inspection of their inventory and records to ensure compliance with record keeping requirements. Licenses shall be kept posted and kept available for inspection on the premises covered by the license.
 - d. Federal Firearms Licensee may maintain a personal collection of firearms.

5. A person who is an unlawful user of, or addicted to, any controlled substance is prohibited from possessing a firearm or ammunition, pursuant to 18 USC, Section 922(g)(3), which reads in part as follows:

It shall be unlawful for any person....who is an unlawful user of or addicted to any controlled substance...to...ship or transport . . . or possess in or affecting commerce, a firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

6. X-Ring Supply is a business in Newark, Delaware, that sells, among other things, firearms and ammunition. On August 9, 2007, your affiant verified that X-Ring Supply is a Federally Licensed Firearms Dealer, FFL#8-51-003-01-8F-33097. The license is held in the name of James L. Cheeseman. The licensed premises is located at 2201 Ogletown Road, Newark, Delaware. In a letter dated July 12, 1994, Cheeseman advised ATF that he was relocating his business from 6 White Oak Drive, Middletown, Delaware 19709 to 2201 Ogletown Road, Newark, Delaware 19711 as of August 15, 1994. On numerous occasions (most recently in or about January 2007), your affiant has personally observed James Cheeseman in the store conducting sales of firearms and ammunition.

7. Cheeseman as a Federal Firearms Licensee has been instructed by members of ATF Industry Operations on legal compliance issues relating to the execution of required documents and records pertaining to the sales of firearms which include, but are not limited to, the Firearms Transaction Record (ATF F 4473) forms which are to be executed by a purchaser of a firearm – and reviewed by the firearms dealer – prior to each sale. ATF F 4473, question number 11e, asks the question “Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?” ATF F 4473 also contains “Important notice #4,” which provides:

Prohibited Persons: Generally, 18 USC, Section 922 prohibits the shipment, transportation, receipt, or possession in or affection commerce of a firearm by one who: . . . is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance

Cheeseman would have reviewed this form each time that he completed a transaction. Accordingly, he would have been regularly reminded that he cannot possess or ship firearms if he is a user of, or addicted to, controlled substances.

8. Your affiant is aware that once his application is approved, an FFL holder such as Cheeseman will receive a paper license. The FFL is permitted to make copies of this license, which he can then submit to firearms wholesalers, manufacturers, and distributors. Your affiant is aware that once a wholesaler receives a copy of the FFL's license (along with some form of payment information), the license holder can simply call the wholesaler/manufacture/distributor and order additional firearms.

9. Your affiant learned from an ATF Industry Operations Investigator that he conducted a compliance inspection at X-Ring Supply. The inspection began on December 5, 2006 and was completed on January 16, 2007. Your affiant confirmed from the investigator that James Cheeseman is the sole proprietor of the firearms business. Your affiant learned from an ATF Industry Operations Investigator that on an FFL application for license or application for license renewal, a sole proprietor can list individuals on an application as responsible persons. Your affiant confirmed that Cheeseman has no responsible persons except himself listed on his renewal application.

10. A full firearms inventory was conducted during the inspection, with a total of seven hundred four (704) firearms found in inventory. Your affiant's review of ATF inspection reports reveals that Cheeseman maintains a store inventory of approximately seven hundred firearms in his business at any given time, and that Cheeseman stores the FFL's entire firearms inventory at the licensed premises. On January 24, 2007, a closing conference was held with Cheeseman and an ATF Industry Operations Investigator who reviewed the Federal Firearms Regulations with Cheeseman. An "Acknowledgement of Federal Firearms Regulations" form was signed by Cheeseman at this time.

11. Your affiant learned from an ATF Industry Operations Investigator that Cheeseman maintains a personal collection of firearms that he keeps on the premises at X-Ring Supply. The following is a list of firearms known to ATF as of the date of the January 2007 inspection that Cheeseman acquired with his FFL and disposed of to his personal collection. Included with the firearm information is the date each firearm was acquired into the Federal Firearms Licensee inventory and that the date the firearm was disposed of to the personal collection.

Manufacturer / Importer	Model	Serial Number	Type	Caliber	Date Acquired	Date Disposed to Personal Collection
Keltec	P3AT	H9452	Pistol	.380	08/16/2005	08/23/2005
Glock	23	CVM402US	Pistol	.40	03/17/2006	04/28/2006
Randall	Service	RF0002162	Pistol	.45	02/03/2003	02/03/2003
Randall	A121	RF04469C	Pistol	.45	02/03/2003	02/03/2003
Walther	P22	C0122	Pistol	.22	03/30/2002	03/30/2002
Keltec	P32	76765	Pistol	.32	07/25/2002	08/13/2002
Grendel	P-30	7860	Pistol	.22	02/02/2001	02/02/2001
Smith & Wesson	64	7D17449	Revolver	.38	03/05/2001	03/05/2001
Smith & Wesson	65	7D88892	Revolver	.357	05/20/2001	05/23/2001
Smith & Wesson	681	ABD7265	Revolver	.357	05/20/2001	05/23/2001
Ithaca	Mag 10	100018479	Shotgun	10 ga.	01/26/2001	01/26/2001
	Stoner SR15-					
Knight Mfg.	M4	KM10612	Rifle	.223	09/30/2000	09/30/2000
Erma Werk	KGP68A	100978	Pistol	.32	11/10/1999	01/10/2001
Winchester	1897	E681122	Shotgun	12 ga.	11/20/1999	11/23/1999
Kimber	Ultra Elite	KUE0025	Pistol	.45	07/23/1999	07/25/1999
Ruger	1022	138224	Semi	.22	09/15/1999	09/25/1999
Kimber	Classic K770	K0012	Rifle	.30-06	04/23/1999	05/01/1999

Kimber	Classic K770	K0005	Rifle	.30-06	04/23/1999	05/01/1999
Ruger	MK450	22270073	Pistol	.22	06/03/1999	06/04/1999
Ruger	MK450	22270074	Pistol	.22	06/03/1999	06/04/1999
Bushmaster	XM15E2S	XX0906	Rifle	.223	06/08/1999	06/10/1999
Colt	SP1	13954	semi	.223	11/17/1998	11/24/1998
Colt	SP1	13862	Semi	.223	11/17/1998	11/24/1998
Kimber	Elite Carry	KEC0684	Semi	.45	12/11/1998	12/13/1998
Smith & Wesson	627	PMA0080	Revolver	.357	01/15/1999	01/16/1999
Springfield						
Armory	BM-59	727	Semi	.308	03/29/1999	03/29/1999
Kimber	Elite Carry	KEC0718	Semi	.45	10/06/1998	10/24/1998
B West	AK475	BWA2517	Semi	7.62x39	10/13/1998	10/15/1998
High Standard	Victor Mod 107	2312991	Semi	.22	05/01/1998	05/08/1998
Smith & Wesson	442	BRP9038	Revolver	.38	07/10/1998	07/15/1998
Caspian	1911A1	14977	s-a	.38 super	07/14/1990	07/17/1990
Remington	XP-100	B7518040	bolt	7mmBR	07/18/1990	07/18/1990
Randall	A311	RF0002496C	sa	.45	09/21/1991	09/23/1991
Walther	GSP	62702	sa	.22	10/27/1991	10/28/1991
Colt	R6701	CH001554	sa	.223	11/01/1991	12/08/1992
Caspian	1911A1	17066	sa	Frame only	11/25/1991	02/21/1992
Ruger	10/22	234-06399	sa	.22	08/07/1992	08/07/1992
Randall	Raider	RF0002859C	sa	.45	10/11/1992	10/12/1992
Colt	1991 Compact	CP03888	sa	.45	11/19/1992	11/20/1992
Caspian Arms				Receiver		
Ltd.	Hi Cap Kit 1911	00177H	sa	only	03/16/1993	03/17/1993
Norinco / Sile	565-1	409998	sa	7.62x39	04/05/1993	04/06/1993
Polytech	AKS223	PF85-001133	sa	.223	10/18/1993	10/18/1993
Remington	1187	PC061333	sa	12 ga.	10/22/1993	10/22/1993
Ruger	10/22	23683609	sa	.22	01/23/1994	01/23/1994
Glock	22	ATT967US	sa	.40	02/10/1994	02/10/1994
Para Ordnance	P12	RS4691	sa	.45	05/05/1994	05/05/1994
	A131					
Randall	Commando	RF00008161C	sa	.45	05/22/1994	05/23/1994
Colt	Sporter Lt Wt	NL003798	sa	9mm	06/21/1994	06/21/1994
Springfield	M1 A	82415	Semi	.308	08/02/1994	08/02/1994
Springfield ARL						
ORD	M1 Tanker					
	Garand	394914	sa	.308	09/22/1994	10/01/1994
Knight Stoner	SR 25 match	24098	sa	7.62	10/24/1994	10/24/1995
Smith & Wesson	15-4	43456	Revolver	.38	12/18/1994	12/20/1995
Para Ordnance	P-16	RF2354	sa	.40	01/16/1995	02/06/1995
Polytech	AKS-762	386 CF-10658	sa	7.62x39	04/08/1995	06/01/1995
Para Ordnance	P14	S3288	Semi	Frame only	08/21/1995	08/30/1995
Mitchell Arms	GS45	M951613	Semi	.45	10/20/1995	10/31/1995
Smith & Wesson	34	25301	Revolver	.22	12/20/1995	12/30/1995
Revelation	400	PRE68	Semi	12 ga.	11/26/1996	12/05/1997
STI	G51-40	EM1133	Semi	.40	12/09/1996	12/12/1996
Weatherby	Orion II	E015910	o/u	12 ga.	12/13/1996	12/23/1996
Polytech	AK47	8799	Semi	7.62x39	03/27/1997	03/29/1997
Ruger	Mini 14	18252031	Semi	.223	05/21/1997	05/24/1997
Ruger	Mini 14	182-72062	Semi	.223	07/18/1997	07/21/1997
STI	KK51	SAS2009	Semi	Frame only	07/25/1997	07/25/1997

STI	KK51	SAS2032	Semi	Frame only	07/25/1997	07/25/1997
Kimber	Target	K019826	Semi	.45	12/12/1997	01/01/1998
Sig Saur	226	U582396	Semi	9mm	01/19/1998	12/01/2001
Sig Saur	226	U582395	Semi	9mm	01/19/1998	12/01/2001

12. Your affiant learned from police reports and speaking with the officers involved that on August 5, 2007, Cheeseman was arrested by members of Delaware State Police and Governor's Task Force and charged with Trafficking Cocaine, Maintaining a Vehicle for Keeping Controlled Substances, Possession of Drug Paraphernalia and Conspiracy 2nd Degree.

13. On or about August 5, 2007, at approximately 11:15 pm, State Police officers observed a vehicle in the parking lot of an Eckerd's store after normal business hours. The vehicle's driver side and passenger side doors were open and a male, later identified as Cheeseman, was observed walking around the vehicle waving his arms, appearing as if he was involved in a verbal confrontation.

14. At the same time a female, later identified as [REDACTED], was observed walking from behind the business tying her skirt closed. It was apparent to the officer that [REDACTED] had just urinated behind the business. The officer approached Cheeseman and [REDACTED]. The officer asked for identification from Cheeseman and [REDACTED]. [REDACTED] provided a [REDACTED] driver's license. Cheeseman stated that he was not in possession of a driver's license and provided the officer with a credit card with his name on it and the business name X-Ring Supply.

15. [REDACTED] was taken into custody for lewdness and a search of her person and purse was conducted. Within [REDACTED] purse, inside a box of Winston cigarettes, was a clear knotted bag containing a white rock like substance believed to be crack cocaine. Within the purse was her wallet which contained a glass tube, burnt at one end, which the officer identified as a "crack pipe," a device which is used for smoking crack cocaine. Also within the purse, at the bottom, was a loose white rock substance believed to be crack cocaine.

16. An officer, knowing Cheeseman to be affiliated with X-Ring Supply, then asked Cheeseman if he was in possession of any weapons. Cheeseman advised no and gave verbal consent to the officer to conduct a pat down search of his person. The officer felt a glass tube in Cheeseman's left front pocket, and, based on the officer's training and experience, knew same to be a crack pipe. Cheeseman was taken into custody at the scene and the item was confirmed to be a crack pipe. This crack pipe also was burnt at one end, suggesting that it had been used.

17. A subsequent search of Cheeseman's person uncovered in Cheeseman's shirt pocket a box of cigarettes. Within the box of cigarettes were three clear plastic bags containing a white rock like substance believed to be crack cocaine. A search of the vehicle was conducted at the scene and an additional crack pipe was found on the center console of the vehicle.

18. The officer weighed the suspected crack cocaine and determined that Cheeseman was in possession of 10.5 grams of suspected crack cocaine, and that [REDACTED] was in possession of 4.2 grams of suspected crack cocaine. The suspected crack cocaine was field tested and produced a positive reading for cocaine.

19. State Police officers interviewed [REDACTED] at DSP Troop 2. [REDACTED] stated the following:

- Cheeseman is her boyfriend and earlier on this date they were in Rehoboth, DE where Cheeseman has a trailer.
- They traveled to New Castle County about an hour prior to being stopped.
- They were going to go to Cheeseman's business, and then were going to return to Rehoboth.
- The crack cocaine located in her purse was given to her by Cheeseman.
- Shortly before being stopped, they met with an unknown subject who Cheeseman had called for the purpose of obtaining crack cocaine. [REDACTED] stated that Cheeseman gave the drug dealer the money and the drug dealer gave Cheeseman the crack cocaine.
- Cheeseman gave her the crack cocaine that the officers found in her cigarette box for her personal use.
- Upon obtaining the crack cocaine they each immediately used a quantity of it while seated inside the vehicle.
- They each have their own crack pipes with which they use to smoke crack cocaine. [REDACTED] stated that they bought the crack cocaine for personal use because it enhances their sexual encounters.

20. Cheeseman declined to be interviewed, but made an unsolicited statement to the officers that he was trying to get help for his addiction and had just returned from rehab.

21. After Cheeseman and [REDACTED] were arraigned at JP Court 11 they were allowed to make phone calls in an attempt to make bail. During this time Cheeseman and [REDACTED] were freely speaking amongst themselves. Officers overheard Cheeseman state to [REDACTED], I don't know why they are charging us like that, we both know it was for personal use.

22. Your affiant interviewed an experienced Drug Enforcement Administration Special Agent who confirmed, based on the agent's experience with street sources, defendants and DEA chemists, that crack cocaine is highly addictive. The DEA Special Agent also advised your affiant that 10 grams of crack cocaine is a substantial quantity if actually

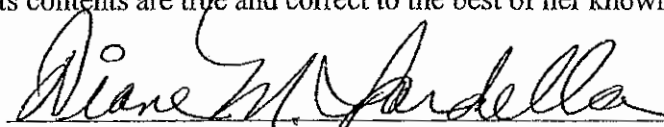
intended for personal use, and that it is likely that a user who acquires such a quantity has a significant drug habit. The DEA agent indicated that this is particularly the case if the user had, in fact, just returned from rehab.

23. Your affiant is aware that X-Ring Supply has remained in business since Cheeseman was found in possession of crack cocaine on August 5, 2007. Indeed, your affiant is aware that X-Ring Supply conducted a background check on at least one potential purchaser on August 11, 2007. Your affiant believes that Cheeseman has not notified ATF of his felony arrest nor his addiction to crack cocaine, and has not surrendered his inventory or his FFL license to ATF.

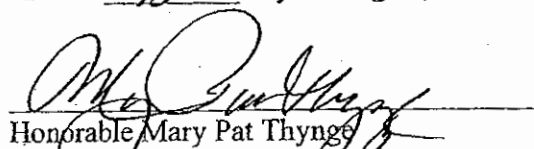
24. Your affiant knows from her experience and training that the firearms referenced in this affidavit were not manufactured in the State of Delaware. Thus, these firearms possessed in the state of Delaware affect interstate commerce. Moreover, during the December 2006-January 2007 inspection, an ATF inspector determined that X-Ring obtains its firearms inventory from at least three wholesalers: Ellett Brothers (of South Carolina), RSR (of New York, Florida, Nevada, Texas, and Wisconsin), and Accusport (of Ohio, Pennsylvania, and Georgia). None of these wholesalers are located in the state of Delaware, and your affiant is not aware of any commercial firearms manufacturers that are located in the state of Delaware.

25. Based on the above facts, your affiant submits that there is probable cause to believe that James Cheeseman has violated, and continues to violate, 18 U.S.C. §§ 922(g)(3), 924(a)(2) by possessing and receiving in interstate commerce firearms and ammunition while being an unlawful user of, and addicted to, a controlled substance; 21 U.S.C. §§ 841(a)(1), (b)(1)(C), by distributing a controlled substance (cocaine base); and 21 U.S.C. § 844, by possessing more than 5 grams of a mixture and substance containing a detectable amount of cocaine base. Your affiant respectfully requests that the Court issue a Criminal Complaint charging these offenses.

Your Affiant, having signed this Affidavit under oath, as to all assertions and allegations contained herein, states that its contents are true and correct to the best of her knowledge, information and belief.


Special Agent Diane M. Iardella
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to and subscribed before
me this 13 day of August, 2007.


Honorable Mary Pat Thyng
United States Magistrate Judge
District of Delaware